



Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant's attorney/agent was contacted concerning the approval of an Examiner's Amendment. The following issues were raised as requiring amendment prior to the allowance of the claims: (1) the recitation of functional language (i.e., that the nucleotide sequence had promoter activity) in claim 1; (2) the amendment of claim 11 to properly indicate multiple dependency in the alternative; (3) the cancellation of the language "PEG-3 promoter" in claims 38-40. As it regards part (3), it was indicated that the indication of the claimed nucleotide sequence as a "PEG-3 promoter" and having "PEG-3 promoter" activity was indefinite because the claimed nucleic acid had permutations that were not actually PEG-3 promoters (for example, the specific order of the functional sequences could be substantially different from the order in which they originally appear in a PEG-3 promoter). It was suggested that the cancellation of the term "PEG-3" would obviate a 35 USC § 112, second paragraph rejection. The amendments were approved by Applicant's agent/attorney, and are reflected in the attached Examiner's Amendment..